

## REMARKS

### Section 102 rejection of claim 1

It is unclear where precisely in *Alfano* the Office has identified any disclosure corresponding to

a housing with a rotatable distal face and a stationary proximal face, the distal face having an eccentric port and a central port

The only structure in *Alfano* that might conceivably be said to rotate is a mirror, shown in FIG. 11, that tilts back and forth. As it does so, it causes a beam to translate up and down on a translation stage.

However, the mirror shown in FIG. 11 is not a distal face of “a housing with a rotatable distal face” as required by claim 1. In fact, there is no housing at all shown in FIG. 11, much less a housing having “a rotatable distal face and a stationary proximal face” as recited in claim 1.

Moreover, even if the mirror *were* a distal face of a housing, it would still require both: (1) an eccentric port, and (2) a central port before it could meet the limitation of claim 1.

As a threshold matter, it is unclear what it means for a mirror to have “ports.” A mirror is just a reflective surface. The notion of a “port” on a mirror is unclear.

In addition, there is no indication that the mirror shown in FIG. 11 is even circular. Unless it is circular, it cannot have a center, and hence the notion of a “central port” and an “eccentric port” makes no sense.

*Alfano* clearly fails to teach the claim limitation of “a housing with a rotatable distal face and a stationary proximal face, the distal face having an eccentric port and a central port.” Accordingly, the section 102 rejection of claim 1 is improper.

Claim 1 also recites the limitation of

a lens disposed inside the housing to intercept a rotating collection beam emerging from the eccentric port and to re-direct the collection beam to a focus proximal to the lens as the collection beam rotates

As a threshold matter, this limitation cannot be met unless there is an eccentric port from which a collection beam can emerge. As discussed above in connection with the first limitation, no such eccentric port exists in *Alfano*.

Applicant suspects that the Office considers the above limitation to be met by the objective lens shown in FIG. 11. It may be that the Office assumes that since the mirror rotates, it follows that the beam extending between the mirror and the lens also rotates.

It is quite plain that this is not the case. The beam that passes through the objective lens does not rotate. It translates. There is no *rotating* beam disclosed in FIG. 11. There is only a *translating* beam.

Claim 10 includes limitations similar to claim 1 and is patentable for at least the reasons discussed above in connection with claim 1.

In addition, claim 10 recites "a rotating catheter having a collection fiber and a delivery fiber extending therethrough." *Alfano* fails to disclose ~~any~~ such rotating catheter.

The remaining claims are dependent on either claim 1 or claim 10. Those claims are therefore patentable for at least the same reasons discussed above in connection with their respective parent claims.

That Applicant has presented only the foregoing reasons for urging patentability of the claims is not intended as an admission that no other reasons exist.

Now pending in this application are claims 1-16, of which claims 1 and 10 are independent. No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket "12258-036001."

Applicant : Jeff Korn  
Serial No. : 10/615,279  
Filed : July 8, 2003  
Page : 7 of 7

Attorney's Docket No.: 12258-036001

Respectfully submitted,

Date: 3/16/05



Faustino A. Lichauco  
Reg. No. 41,942

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906  
21048116.doc